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Paper No. 5

SYMYX TECHNOLOGIES INC  
LEGAL DEPARTMENT  
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**JUL 17 2001**

**OFFICE OF PETITIONS  
A/C PATENTS**

In re Application of  
H. Sam Bergh et al.  
Application No. 09/801,389  
Filed: March 7, 2001  
Attorney Docket No. 2000-022DIV1

: DECISION GRANTING  
: PETITION  
:  
:

This is a decision on the petition under 37 CFR 1.10(c) filed June 29, 2001, requesting that the above-identified application be accorded a filing date of March 7, 2001, rather than the presently accorded filing date of March 8, 2001.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on March 7, 2001. In support, applicant provided a copy of the Express Mail label, receipt no. EL418494568US, showing a Date-In of March 14, 2000. The same Express Mail receipt number was referred to in the copy of the original Application Transmittal Letter submitted with the instant petition. Applicants request that the application be accorded a filing date of March 7, 2001.

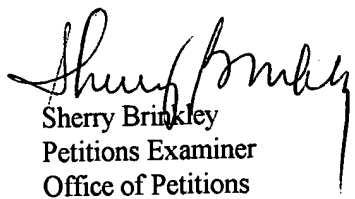
The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on March 7, 2001.

The petition is granted.

Preliminary amendment filed with the instant petition is acknowledged.

The application is being returned to Initial Patent Examination Division to await applicants' response to the Notice mailed May 30, 2001, and for correction of the filing date to March 7, 2001.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

  
Sherry Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy